

## Message Text

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62

ORIGIN PM-04

INFO OCT-01 ISO-00 EA-07 NSC-05 SP-02 SS-15 TRSE-00

CIAE-00 INR-07 NSAE-00 L-03 ACDA-07 MC-02 AID-05 EB-07

/065 R

DRAFTED BY DOD/DSAA:GCROSSMAN:PM/SAS:JNOTARGIACOMO:RF

APPROVED BY PM/SAS - SWINSHIP

OGC - B. FOREMAN

DOD/DSAA - LTGEN FISH

EA/RA - COL. BAILEY

USAF - CLRD 4/8/76

T - MR. LEWIS

S/S - MR. ORTIZ

----- 104851

R 241923Z APR 76

FM SECSTATE WASHDC

TO AMEMBASSY KUALA LUMPUR

INFO AMEMBASSY SINGAPORE

SECDEF

C O N F I D E N T I A L STATE 100293

E.O. 11652: GDS

TAGS: MASS, MY, SN

SUBJECT: AGENT'S FEES

REF: KUALA LUMPUR 1915

1. (C) EXISTENCE OF AGENCY AGREEMENT AND AGENT'S FEE  
WITH SHARIKAT BUMIPUTRA WAS MADE KNOWN TO USAF CONTRACTING  
OFFICER AT TIME OF SALE OF F-5ES TO MALAYSIA IN 1972.  
AGREEMENT WAS EXAMINED BY CONTRACTING OFFICER AND  
DETERMINED TO MEET CRITERIA SET FORTH IN THE ARMED  
SERVICES PROCUREMENT REGULATIONS (ASPR) AS TO REASONABLE-  
NESS OF FEE, WHETHER AGENT WAS BONA FIDE, WHETHER  
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FEE WAS ALLOCABLE TO CONTRACT, AND WHETHER ANY IMPROPER  
INFLUENCE WAS INVOLVED. FEE AMOUNT OF \$620,147 WAS

INCLUDED IN FMS PRICING AS LEGITIMATE ELEMENT OF COST UNDER ASPR.

2. (U) IT SHOULD BE NOTED THAT ACCEPTANCE OF AGENT'S ACTIVITIES WHICH MEET CERTAIN SPECIFIED CRITERIA HAS LONG BEEN RECOGNIZED IN THE ASPR. US POLICY OF REQUIRING THAT THIS INFORMATION BE REPORTED TO DSAA AND THE PURCHASING GOVERNMENT IS NEW (EFFECTIVE 6 AUG 75) AND WAS NOT IN

EFFECT AT TIME OF MALAYSIA F-5 SALE. ACCORDINGLY, THERE WAS NO REQUIREMENT FOR THE AIR FORCE TO IDENTIFY THE FEE ON THE LETTERS OF OFFER FOR FMS CASES SAA AND SAJ.

3. (U) DOD REGS IN EFFECT AT TIME OF FMS SALE RECOGNIZED (AS DO CURRENT REGS) LEGITIMACY OF EXPENSES INCURRED BY CONTRACTOR FOR SERVICES OF BONA FIDE IN-COUNTRY REPRESENTATIVE, E.G. IDENTIFYING QUESTIONS WHICH NEED TO BE ANSWERED, OBTAINING INFORMATION FROM COMPANY IN RESPONSE TO PURCHASER'S REQUESTS, BRIEFING COMPANY ON APPROPRIATE ACTIONS TO TAKE IN ORDER TO COMPLY WITH NATIONAL LAWS AND PROCEDURES, INITIATING INTERVIEWS, PROVIDING BRIEFINGS AND DEMONSTRATIONS, AND PROVIDING OFFICE ACCOMMODATIONS AND TRANSPORTATION WHEN HOME OFFICE REPRESENTATIVES VISIT COUNTRY. SUCH LEGITIMATE ACTIVITIES SHOULD BE CAREFULLY DISTINGUISHED FROM PAYMENT OF BRIBES OR OTHER ILLEGITIMATE ACTIVITIES WHICH USG DOES NOT CONDONE AND WHICH HAVE FOR MANY YEARS BEEN EXPRESSLY EXCLUDED FROM REIMBURSEMENT BY ASPR. RECENT CHANGE IN PROCEDURE REQUIRES PURCHASER APPROVAL AS AN ADDITIONAL CRITERION FOR REIMBURSEMENT OF AGENT'S FEE, BUT PREEXISTING ASPR STANDARDS ARE PRESERVED.

4. (C) AS NOTED ABOVE, CONTRACTING OFFICER'S REVIEW OF CONTRACTOR'S RECORDS GAVE NO INDICATION THAT FEE IN THIS CASE REPRESENTED ANYTHING OTHER THAN LEGITIMATE EXPENSE FOR SERVICES OF BONA FIDE INCOUNTRY REPRESENTATIVE AND, THEREFORE, ELIGIBLE FOR REIMBURSEMENT UNDER ASPR. CONTRACTING OFFICER RELIED UPON NORTHROP RECORDS IN MAKING THIS DETERMINATION AND WE HAVE NO INDEPENDENT  
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KNOWLEDGE OF SERVICES ACTUALLY PERFORMED BY AGENT. IF EMBASSY OR GOM HAVE OR OBTAIN ANY INFORMATION CASTING DOUBT UPON LEGITIMACY OF SERVICES PERFORMED, INDICATING NEED FOR REEXAMINATION OF FEE, FULL PARTICULARS SHOULD BE PASSED TO US.

5(C)WITHOUT APPROACHING GOM, DEPARTMENT REQUESTS BEING INFORMED AS TO WHETHER LOCAL LAWS PROHIBITED RECOURSE TO AGENTS AND AGENCY FEES AT TIME LOA WAS SIGNED. SISCO

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** BRIBERY, MILITARY SALES, JET AIRCRAFT, FEES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 24 APR 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** vogelfj  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** GCROSSMAN:PM/SAS:JNOTARGIACOMO:RF  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D760157-0210  
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**Handling Restrictions:** n/a  
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**Office:** ORIGIN PM  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Previous Handling Restrictions:** n/a  
**Reference:** 76 KUALA LUMPUR 1915  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** vogelfj  
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**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** AGENT'S FEES  
**TAGS:** MASS, MY, SN, US  
**To:** KUALA LUMPUR  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006